

REMARKS/ARGUMENTS

Applicant has amended Claim 14 to correct a typographical error. No new matter was added by these amendments. Claims 1-17 remain in this application. Applicant requests reconsideration of this application in view of these remarks and arguments.

Allowable Subject Matter

Applicant acknowledges that the Examiner has allowed Claims 8-17. Applicant further acknowledges that the Examiner has objected to Claims 4, 6 and 7 as being dependent upon a rejected base claim but further stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has elected not to rewrite Claims 4, 6 and 7 into independent form as suggested by the Examiner, since Applicant believes that the base claim (Claim 1) from which these claims depend is itself allowable.

Claim Rejections 35 USC §102

The Examiner has rejected Claims 1-3 and 5 under 35 U.S.C. 102(b) as being clearly anticipated by Sowa (USPN 5,619,572). Applicant traverses these rejections. MPEP § 2131 provides: A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F. 2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim In this case, the Sowa reference fails to describe each and every element as set forth in Claims 1-3 and 5.

More particularly, the invention as recited in Claim 1 requires a key management facility receiving encryption key rekeying requests from a non-roaming communication

unit as well as a roaming communication unit. The key management facility responds to both the non-roaming and roaming communication units by communicating a rekeying message having a rekeying encryption key, wherein at least a portion of the rekeying encryption key is encrypted using a scheme that is respectively decypherable by the non-roaming and roaming communication units. Sowa discloses methods for over-the-air-rekeying (OTAR) but does not specifically disclose that the rekeying is performed for both non-roaming and roaming communication units in the same manner, as is required in Claim 1.

The Examiner cites col. 3, lines 13-26 and FIG. 4 as reading on the limitations of Claim 1. However, this passage discloses that when a radio receives an OTAR rekeying message that is encrypted with its UKEK (or unique key encryption key that is unique to that particular radio), the radio unit loads its UKEK to decrypt the message and retrieve the TEKs (traffic encryption keys) contained in the message. The passage further discloses that when the OTAR is intended for a particular group, it can be encrypted using the CKEK (common key encryption key that is shared by that particular group); and when the radio unit receives such a message, it loads the CKEK to decrypt the OTAR message and retrieve the TEKs contained therein. There is no mention of rekeying of a non-roaming radio unit verses rekeying of a roaming radio unit as is required by Claim 1.

Therefore, since limitations are missing from the Sowa reference, a 35 U.S.C. 102(b) rejection of Claims 1-3 and 5 based on this reference is improper and should be removed.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection. Further, Applicant reserves the right to present in future submissions any argument not presented in the present paper.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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